

**ASSEMBLY BILL**

**No. 1664**

**Introduced by Assembly Member Montanez**

February 21, 2003

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An act to add Division 1.4 (commencing with Section 4200) to the Financial Code, relating to financial institutions.

LEGISLATIVE COUNSEL'S DIGEST

AB 1664, as introduced, Montanez. Bank Customer Bill of Rights Act.

Existing law provides for regulation of banks by the Department of Financial Institutions. Existing law prohibits a person originating certain consumer loans from steering, counseling, or directing a prospective consumer to accept a loan product with a risk grade that is less favorable than the risk grade the consumer would qualify for. Existing law prohibits certain financial institutions operating an automated teller machine from imposing a surcharge on a customer for the usage of the machine whether or not the customer is using an access device issued by the financial institution unless the surcharge is clearly disclosed to the customer at the machine.

This bill would enact the Bank Customer Bill of Rights that would prohibit banks from engaging in various acts, including selling private credit information about a customer to a marketing business without the customer's consent, charging customers using the bank's automated teller machine cards an overdraft penalty that is \$30 or more without providing a specified notice, issuing a credit card that has an interest rate that is greater than 2% above the prime rate, and charging a customer with a higher than average interest rate on a loan if the customer

qualifies for a lower interest rate and the bank has not made the customer aware of that fact.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. Division 1.4 (commencing with Section 4200) is added to the Financial Code, to read:

DIVISION 1.4. BANK CUSTOMER BILL OF RIGHTS

CHAPTER 1. GENERAL PROVISIONS

4200. This division shall be known and may be cited as the Bank Customer Bill of Rights Act.

4201. For the purposes of this division, the following definitions shall apply:

(a) “Automated teller machine” means any electronic information processing device located in California that accepts or dispenses cash in connection with a credit, deposit, or convenience account. The term does not include devices used solely to facilitate check guarantees or check authorizations, or that are used in connection with the acceptance or dispensing of cash on a person-to-person basis such as by a store cashier.

(b) “Bank” means a California state bank or a foreign (other nation) bank that is licensed under Article 3 (commencing with Section 1750) of Chapter 13.5 to maintain one or more retail branch offices, as defined in Section 1700.

(c) “Customer” means one or more natural persons that have an account with a bank.

CHAPTER 2. PROHIBITED ACTS

4210. No bank may sell private credit information about a customer to a marketing business for profit without the customer’s consent.

4211. No bank may charge customers using the bank’s automated teller machine cards an overdraft penalty that is thirty

1 dollars (\$30) or more without providing prior notice to customers  
2 of the cumulative charges.

3 4212. No bank may issue a credit card that has an interest rate  
4 that is greater than 2 percent above the prime rate.

5 4213. No bank may charge a customer a higher than average  
6 interest rate on a loan if the customer qualifies for a lower interest  
7 rate on the loan and the bank has not made the customer aware of  
8 that fact.

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